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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/807,507      | 03/24/2004  | Jonathan Kleinsasser | 80215-2502 ADB      | 3374             |

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ADE & COMPANY  
 1700-360 MAIN STREET  
 WINNIPEG, MB R3C3Z3  
 CANADA

EXAMINER

ABBOTT, YVONNE RENEE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3644

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,507

Applicant(s)

KLEINSASSER, JONATHAN

Examiner

Yvonne R. Abbott

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004 and interview of 8/22/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/8/05.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-15, drawn to a farrowing crate, classified in class 119, subclass 521.

II. Claims 16-21, drawn to a feeder, classified in class 119, subclass 52.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require that the hopper and the discharge opening be arranged relative to the base plate so that an angle of repose of the feed material acts to restrict flow of feed from the hopper onto the base plate and to replace fresh feed only when feed is taken away. The subcombination has separate utility such as dog food hopper and trough feeder, or other particulate dispenser.

3. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

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4. During a telephone conversation with Mr. Adrian D. Battison on 8/22/05 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Specification***

5. The disclosure is objected to because of the following informalities: in the Abstract, line 2, "fro" should be changed to -for--.

Appropriate correction is required.

***Drawings***

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings appear to be incomplete with portions of the figures cut off. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botterman et al. (2004/0118353 A1) in view of Hartke et al. (4,505,227). Botterman et al. show an animal containment device or cage (20) having front, rear and side walls, and a floor (110), wherein the floor includes a section capable of receiving a sow and a side portion capable of receiving piglets; and a feeder at the front wall comprising a trough for receiving feed discharged from the hopper, the trough comprising a side walls (70,80), and a flat base plate (120) arranged to lie substantially flat on the flooring and extend from the front wall rearwardly over the flooring, the base plate forming the trough having a raised transverse restricting member (130) having a front, rear and curved top edge surface with the front and rear surfaces inclined to form an inverted V-shape in cross section (Fig. 3); wherein the restricting member is spaced from the front wall and extending across the base plate to define a trough area (182) of the base plate forwardly of the transverse restricting member, the transverse restricting member being shaped so as to have a height which is capable of restraining feed from escaping from the trough area rearwardly, and being shaped to allow a sow to lie on the flooring with its head extending over the transverse restricting member into the trough area without causing discomfort to the lying sow. Botterman et al., however, do not disclose the height of the restricting member, or a hopper for supplying feed to the trough. It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to provide that the height of the restricting member be no greater than 2 inches to provide sufficient access to material within the trough while preventing spillage thereover. Hartke et al. teach a pig pen (10) having a front wall including feeder (20) for small pigs comprising a hopper (22) having an opening (27) which dispenses feed into a trough (23); wherein the hopper has restriction members (31) capable of restricting side to side movement of the head of a sow during feeding; and the hopper and discharge opening are arranged relative to the base plate via adjustable slide (26) so that an angle of repose of the feed material acts to restrict flow of feed from the hopper onto the base plate and to replace fresh feed only when feed is taken away; and wherein the hopper is located outside the front wall and the discharge opening extends through the front wall; and wherein the front wall includes a gate (13) to which the hopper is mounted wherein the gate will swing out to move the hopper away from the floor. Hopper and trough mechanisms are well known in the art of animal feeders, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the feed trough of Botterman et al. have a hopper connected (operationally, or otherwise) thereto in order to provide controlled, efficient, and selective feeding of the animals.

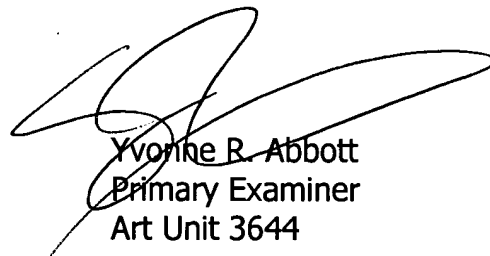
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571)

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272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644

8/22/05